further to delve into the books and records with respect to Count 2.

It is earnestly contended that if the Court had not accentuated item 10 and obliterated item 14 in the eyes of the jury, which latter item applies to the same transactions, then the jury would have found that there was no wilful withholding of any information concerning Anita Stone, who according to the Government's accountant had put $10,000 more into this sinking business which had been earmarked as capital investment.

CONCLUSION

It is respectfully submitted that on this petition for rehearing, this Honorable Court issue a writ to review the judgment of affirmance herein.

Respectfully submitted,

ARCHIBALD PALMER,
Attorney for Petitioner.

Dated: New York, January 10, 1961.

Certification of Attorney

I hereby certify that the foregoing petition is filed in good faith and not for delay and that the petition is restricted to the grounds specified in Rule 58(2) of the Rules of the Supreme Court of the United States.

ARCHIBALD PALMER.

Government's Exhibit 1

Statement of Affairs.

(See opposite ☛)

Official Form No. 3

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS
71 BROADWAY AND 1 RECTOR ST., NEW YORK

STATEMENT OF AFFAIRS

EXHIBIT 2

(For Bankrupt or Debtor Engaged in Business.)

(NOTE:—Each question should be answered or the failure to answer explained. If the answer is "none," this should be stated. If additional space is needed for the answer to any question, a separate sheet, properly identified and made a part hereof, should be used and attached.

If the bankrupt or debtor is a partnership or a corporation, the questions shall be deemed to be addressed to, and shall be answered on behalf of, the partnership or corporation; and the statement shall be verified by a member of the partnership or by a duly authorized officer of the corporation.

The term, "original petition," as used in the following questions, shall mean the petition filed under section 3b or 4a of chapter III, section 322 of chapter XI, section 422 of chapter XII, or section 622 of chapter XIII.)

1. Nature, location and name of business.

a. What business are you engaged in? (If business operations have been terminated, give the date of such termination.) Manufacturing and selling dresses

b. Where, and under what name, do you carry on such business? No. 1375 Broadway, New York 18 New York under name of ELLEN-JOAN FASHIONS, INC.

c. When did you commence such business? February, 1952

d. Where else, and under what other names, have you carried on business within six years immediately preceding the filing of the original petition herein? (Give street addresses, the names of any partners, joint adventurers, or other associates, the nature of the business, and the periods for which it was carried on.)

None

2. Books and records.

a. By whom, or under whose supervision, have your books of account and records been kept during the two years immediately preceding the filing of the original petition herein? (Give names, addresses, and periods of time.) Rose Cassano, 2137 - 72nd St., Brooklyn, N.Y. since Jan. 1955; prior thereto Selma Darasch, 1166 Grant Avenue, Bronx, New York City

b. By whom have your books of account and records been audited during the two years immediately preceding the filing of the original petition herein? (Give names, addresses, and dates of audits.) Louis Klutz, 49 West 37th St., New York, New York, for past year; prior thereto Goldberg & Gilbert, 132 East 43rd St., New York, New York

c. In whose possession are your books of accounts and records? (Give names and addresses.) Petitioner's at No. 1375 Broadway, New York 18 New York

3. Financial statements.

a. Have you issued any financial statements within the two years immediately preceding the filing of the original petition herein? (Give dates, and the names and addresses of the persons to whom issued, including mercantile and trade agencies.) In December, 1954 to National Credit Association, 135 Broadway, New York City

4. Inventories.

a. When was the last inventory of your property taken? June 21, 1955

b. By whom, or under whose supervision, was this inventory taken? Michael Stono

c. What was the amount, in dollars, of the inventory? (State whether the inventory was taken at cost, market, or otherwise.) Approx. $3,100.00, at cost

d. When was the next prior inventory of your property taken? March 30, 1955

e. By whom, or under whose supervision, was this inventory taken? Michael Stono

f. What was the amount, in dollars, of the inventory? (State whether the inventory was taken at cost, market, or otherwise.) Approx. $15,000.00

g. In whose possession are the records of the two inventories above referred to? (Give names and addresses.) No record kept

5. Income other than from operation of business.

a. What amount of income, other than from the operation of your business, have you received during each of the two years immediately preceding the filing of the original petition herein? (Give particulars, including each source, and the amount received therefrom.)

None

6. Income tax returns.

a. Where did you file your last federal and state income tax returns, and for what years? For 1954 - Federal 487 Lexington Ave., New York City; State at Albany New York

7. Bank accounts and safe deposit boxes.

a. What bank accounts have you maintained, alone or together with any other person, and in your own or any other name, within the two years immediately preceding the filing of the original petition herein? (Give the name and address of each bank, the name in which the deposit was maintained, and the name of every person authorized to make withdrawals from such account.)

Chemical Corn Exchange Bank & Trust Company, 38th Street and Seventh Avenue, New York, New York - signature of Michael Stono, Secretary

b. What safe deposit box or boxes or other depository or depositories have you kept or used for your securities, cash or other valuables, within the two years immediately preceding the filing of the original petition herein? (Give the name and address of the bank or other depository, the name in which each box or other depository was kept, the name of every person who had the right of access thereto, a brief description of the contents thereof, and, if surrendered, when surrendered, or, if transferred, when transferred and the name and address of the transferee.)

None

8. Property held in trust.

a. What property do you hold in trust for any other person? (Give name and address of each person, and a description of the property and the amount or value thereof.)

None

is needed for the answer to any question, a separate sheet, properly identified and made a part hereof, should be used and attached.

If the bankrupt or debtor is a partnership or a corporation, the questions shall be deemed to be addressed to, and shall be answered on behalf of, the partnership or corporation; and the statement shall be verified by a member of the partnership or by a duly authorized officer of the corporation.

The term, "original petition," as used in the following questions, shall mean the petition filed under section 3b or 4a of chapter III, section 322 of chapter XI, section 422 of chapter XII, or section 622 of chapter XIII.)

---

1. Nature, location and name of business.

a. What business are you engaged in? Manufacturing and selling dresses
(If business operations have been terminated, give the date of such termination.)

b. Where, and under what name, do you carry on such business? No. 1375 Broadway, New York 18 New York under name of HELEN-JOAN FASHIONS, INC.

c. When did you commence such business? February, 1952

d. Where else, and under what other names, have you carried on business within six years immediately preceding the filing of the original petition herein? (Give street addresses, the names of any partners, joint adventurers, or other associates, the nature of the business, and the periods for which it was carried on.)

None

2. Books and records.

a. By whom, or under whose supervision, have your books of account and records been kept during the two years immediately preceding the filing of the original petition herein? (Give names, addresses, and periods of time.) Lobo Cabbuteo, 2124 - 72nd St., Brooklyn, N.Y. since Jan. 1955 prior thereto Selma Barasch, 1166 Grant Avenue, Bronx, New York City

b. By whom have your books of account and records been audited during the two years immediately preceding the filing of the original petition herein? (Give names, addresses, and dates of audits.) Louis Hunts, 49 East 37th St., New York, New York, for past year; prior thereto Goldberg & Gilbert, 152 East 43rd St., New York, New York

c. In whose possession are your books of accounts and records? (Give names and addresses.)

Petitioner's at No. 1375 Broadway, New York 18 New York

3. Financial statements.

a. Have you issued any financial statements within the two years immediately preceding the filing of the original petition herein? (Give dates, and the names and addresses of the persons to whom issued, including mercantile and trade agencies.)

In December, 1954 to National Credit Association, 135 Broadway, New York City

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a. When was the last inventory of your property taken? June 21, 1955

b. By whom, or under whose supervision, was this inventory taken? Michael Stono

c. What was the amount, in dollars, of the inventory? Approx. $3,100.00, at cost
(State whether the inventory was taken at cost, market, or otherwise.)

d. When was the next prior inventory of your property taken? March 30, 1955

e. By whom, or under whose supervision, was this inventory taken? Michael Stono

f. What was the amount, in dollars, of the inventory? Approx. $15,000.00
(State whether the inventory was taken at cost, market, or otherwise.)

g. In whose possession are the records of the two inventories above referred to?
(Give names and addresses.)

No record kept

5. Income other than from operation of business.

a. What amount of income, other than from the operation of your business, have you received during each of the two years immediately preceding the filing of the original petition herein?
(Give particulars, including each source, and the amount received therefrom.)

None

6. Income tax returns.

a. Where did you file your last federal and state income tax returns, and for what years? For 1954 - Federal 487 Lexington Ave., New York City; State at Albany New York

7. Bank accounts and safe deposit boxes.

a. What bank accounts have you maintained, alone or together with any other person, and in your own or any other name, within the two years immediately preceding the filing of the original petition herein?
(Give the name and address of each bank, the name in which the deposit was maintained, and the name of every person authorized to make withdrawals from such account.)

Chemical Corn Exchange Bank & Trust Company, 38th Street and Seventh Avenue, New York, New York - signature of Michael Stono, Secretary

b. What safe deposit box or boxes or other depository or depositories have you kept or used for your securities, cash or other valuables, within the two years immediately preceding the filing of the original petition herein?
(Give the name and address of the bank or other depository, the name in which each box or other depository was kept, the name of every person who had the right of access thereto, a brief description of the contents thereof, and, if surrendered, when surrendered, or, if transferred, when transferred and the name and address of the transferee.)

None

8. Property held in trust.

a. What property do you hold in trust for any other person?
(Give name and address of each person, and a description of the property and the amount or value thereof.)

None

JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS
71 BROADWAY AND 1 RECTOR ST., NEW YORK

STATEMENT OF AFFAIRS—Continued

9. *Prior bankruptcy or other proceedings; assignments for benefit of creditors.*
   a. What proceedings under the Bankruptcy Act have been brought by or against you during the six years immediately preceding the filing of the original petition herein? (Give the location of the bankruptcy court, the nature of the proceeding, and whether a discharge was granted or refused, or a composition, arrangement or plan was or was not confirmed.)

   None

   b. Was any of your property, at the time of the filing of the original petition herein, in the hands of a receiver or trustee? (If so, give the name and location of the court, nature of the proceeding, a brief description of the property, and name of receiver or trustee.)

   No

   c. Have you made any assignment of your property for the benefit of your creditors, or any general settlement with your creditors, within the two years immediately preceding the filing of the original petition herein? (If so, give dates, the name of the assignee, and a brief statement of the terms of assignment or settlement.)

   No

10. *Loans repaid.*
    a. What repayments of loans have you made during the year immediately preceding the filing of the original petition herein? (Give the name and address of the lender, the amount of the loan and when received, the amount and date when repaid, and, if the lender is a relative, the relationship. If the bankrupt or debtor is a partnership, state whether the lender is or was a partner or a relative of a partner, and, if so, the relationship. If the bankrupt or debtor is a corporation, state whether the lender is or [illegible] a relative of an officer, director or stockholder, and, if so, the relationship.) Chemical Corn Exchange Bank & Trust Co. repaid full amount of $10,000.; David Schwartz repaid full amount of $5,000. Sue Brett repaid full amount of $2,000.00; Michael Stone, Secretary, repaid $4,660.00 since February 28, 1955 - balance due $3,038.00; ALL AS APPEAR IN THE BOOKS AND RECORDS

11. *Transfer of property.*
    a. What property have you transferred or disposed of other than in the ordinary course of business, during the year immediately preceding the filing of the original petition herein? (Give a description of the property, the date of the transfer or disposition, to whom transferred or how disposed of, and, if the transferee is a relative, the relationship, the consideration, if any, received therefor, and the disposition of such consideration.)

    None

12. *Accounts receivable.*
    a. Have you assigned any of your accounts receivable during the year immediately preceding the filing of the original petition herein? (If so, give names and addresses of assignees.) Accounts assigned to Amherst Factors, Inc. 855 Avenue of Americas, New York City

13. *Losses.*
    a. Have you suffered any losses from fire, theft or gambling during the year immediately preceding the filing of the petition herein? (If so, give particulars, including dates, and the amounts of money or value and general description of property lost.)

    No

(If the bankrupt or debtor is a partnership or corporation the following additional questions should be answered.)

14. *Withdrawals.*
    a. What personal withdrawals, including loans, have been made by each member of the partnership, or by each officer, director or managing executive of the corporation, during the year immediately preceding the filing of the original petition herein? (Give name of each person, whether partner, officer, director or manager, the dates and amounts of withdrawals, and nature or purpose thereof.)

    As appear in the books and records

15. *Members of partnership; officers, directors, managers, and principal stockholders of corporation.*
    a. What are the names and addresses of each member of the partnership, or the names, titles and addresses of each officer, director and managing executive, and of each stockholder holding 25 per cent. or more of the issued and outstanding stock, of the corporation? Anita Stone, President, directors and stockholder - 1947 19 Lane, Brooklyn, New York; Michael Stone, Secretary, Treasurer and director, 1947 19 Lane, Brooklyn, New York.

ELLEN-JOAN FASHIONS, INC.

XXXXXXX [or Debtor]

By ________________________ Secy.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

State of X County of ss.:

I, XXXXXXX affairs, do hereby make solemn oath that the answers therein contained are true and complete to the best of my knowledge, information, and belief.

Subscribed and sworn to before me XXX day of XXXX, 19

Bankrupt [or Debtor]

[Official character]

State of New York County of New York ss.:

MICHAEL STONE being duly sworn, deposes and says that he is the Secretary of ELLEN JOAN FASHIONS, INC., the XXXXXX [or debtor] named in the foregoing statement of affairs and is duly authorized to make said statement on its behalf, and that the answers therein contained are true and complete according to the best of his knowledge, information, and belief.

Subscribed and sworn to before me this 24th day of June, 1955 XXX

charge was granted or refused, or a composition, arrangement or plan was or was not confirmed.)

None

b. Was any of your property, at the time of the filing of the original petition herein, in the hands of a receiver or trustee? (If so, give the name and location of the court, nature of the proceeding, a brief description of the property, and name of receiver or trustee.)

No

c. Have you made any assignment of your property for the benefit of your creditors, or any general settlement with your creditors, within the two years immediately preceding the filing of the original petition herein? (If so, give dates, the name of the assignee, and a brief statement of the terms of assignment or settlement.)

No

10. Loans repaid.

a. What repayments of loans have you made during the year immediately preceding the filing of the original petition herein? (Give the name and address of the lender, the amount of the loan and when received, the amount and date when repaid, and, if the lender is a relative, the relationship. If the bankrupt or debtor is a partnership, state whether the lender is or was a partner or a relative of a partner, and, if so, the relationship. If the bankrupt or debtor is a corporation, state whether the lender is or was an officer, director or stockholder, or a relative of an officer, director or stockholder, and, if so, the relationship.) Chemical Corn Exchange Bank & Trust Co. repaid full amount of $10,000.; David Schwartz repaid full amount of $5,000. Sue Brett repaid full amount of $2,000.00; Michael Stone, Secretary, repaid $4,660.00 since February 28, 1955 - balance due $3,038.00; ALL AS APPEAR IN THE BOOKS AND RECORDS

11. Transfer of property.

a. What property have you transferred or disposed of other than in the ordinary course of business, during the year immediately preceding the filing of the original petition herein? (Give a description of the property, the date of the transfer or disposition, to whom transferred or how disposed of, and, if the transferee is a relative, the relationship, the consideration, if any, received therefor, and the disposition of such consideration.)

None

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a. Have you assigned any of your accounts receivable during the year immediately preceding the filing of the original petition herein? (If so, give names and addresses of assignees.) Accouhts assigned to Amherst Factors, Inc. 855 Avenue of Americas, New York City

13. Losses.

a. Have you suffered any losses from fire, theft or gambling during the year immediately preceding the filing of the petition herein? (If so, give particulars, including dates, and the amounts of money or value and general description of property lost.)

No

(If the bankrupt or debtor is a partnership or corporation the following additional questions should be answered.)

14. Withdrawals.

a. What personal withdrawals, including loans, have been made by each member of the partnership, or by each officer, director or managing executive of the corporation, during the year immediately preceding the filing of the original petition herein? (Give name of each person, whether partner, officer, director or manager, the dates and amounts of withdrawals, and nature or purpose thereof.)

As appear in the books and records

15. Members of partnership; officers, directors, managers, and principal stockholders of corporation.

a. What are the names and addresses of each member of the partnership, or the names, titles and addresses of each officer, director and managing executive, and of each stockholder holding 25 per cent. or more of the issued and outstanding stock, of the corporation? Anita Stone, President, directors and stockholder - 1947 19 Lane, Brooklyn, New York; Michael Stone, Secretary, Treasurer and director, 1947 19 Lane, Brooklyn, New York.

ELLEN-JOAN FASHIONS, INC.

.....
[Bankrupt or Debtor]

State of X County of ss.:

By _____ Secy.

I, , affairs, do hereby make solemn oath that the answers therein contained are true and complete to the best of my knowledge, information, and belief.

Subscribed and sworn to before me this day of , 19

.....
Bankrupt [or Debtor]

.....
[Official character]

State of New York County of New York ss.:

MICHAEL STONE, being duly sworn, deposes and says that he is the Secretary of ELLEN-JOAN FASHIONS, INC., the bankrupt [or debtor] named in the foregoing statement of affairs and is duly authorized to make said statement on its behalf, and that the answers therein contained are true and complete according to the best of his knowledge, information, and belief.

Subscribed and sworn to before me this 24th day of June, 1955

.....
[Official character]